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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON DEPUTY

BY

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

JAMES MOURITSEN, resident of the)
State of Washington,) NO CV01 1939
Plaintiff,)
vs) COMPLAINT FOR DEPRIVATION OF
M D. PORTER, an officer of King County) CIVIL RIGHTS BY OFFICIALS
Sheriff's Department; OFFICERS II TO)
XX, officers of King County Sheriff's) [JURY TRIAL DEMANDED]
Department, KING COUNTY, a political)
subdivision of the State of Washington;)
KING COUNTY CORRECTIONAL)
FACILITY, an agency of King County,)
KING COUNTY SHERIFF'S)
DEPARTMENT, an agency of King)
County,)
Defendants)

Plaintiff alleges.

INTRODUCTION

1 Plaintiff James Mouritzen brings an action against King County, the King
2 County Sheriff's Department, the King County Correctional Facility, and
3 individual Sheriff's Department Officers and Supervisors (collectively
4 "Defendant Officers"), for damages arising out of incidents of excessive force,
5 false arrest, denial of constitutional rights and common law torts committed by
6 defendants against plaintiff on November 30 and December 1, 1999.



CV 01-1939 #1

JURISDICTION

2. Plaintiff brings this action against defendants for redress of deprivation of rights secured him by the United States Constitution and 42 U S C. Section 1983.
 3. Plaintiff is a citizen of the State of Washington. Each individual defendant is, upon information and belief, a citizen of the State of Washington The matter in controversy exceeds the sum of \$100,000, exclusive of interest and costs
 4. This Court has jurisdiction over this matter pursuant to 42 U.S.C. Section 1983, other relevant Acts of Congress, and the Constitution of the United States
 5. Plaintiff also invokes supplemental jurisdiction of this Court over plaintiff's state claims against defendants for common law violations, as the common law claims form part of the same case or controversy
 6. Venue is proper in the Western District of Washington, as all of the acts complained of occurred in King County in Washington.

PARTIES

- 7 Plaintiff is a resident of the State of Washington.

8 Defendant M. D. Porter is, upon information and belief, a resident of
Washington and an employee of Defendant King County Sheriff's Department,
and is sued in his individual and official capacity.

9. Defendants Officers II through XX are, upon information and belief, residents
of Washington who, at all times pertinent hereto, were employed by Defendant
King County Sheriff's Department or Defendant King County Correctional
Facility, and represent unknown Sheriff's Officers or Supervisors who

- 3 participated in violating plaintiff's rights Plaintiff intends to discover the
4 identity of such persons. They are sued individually and in official capacities.
5
6 10. Defendant King County is a political subdivision of the State of Washington,
7 and operates Defendant King County Sheriff's Department and Defendant King
8 County Correctional Facility pursuant to the laws of the State of Washington
9
11. At the time of the incident at issue and all times pertinent hereto, the defendants
10 acted under color of law, of a statute, ordinance, regulation, custom, or usage.
11
12. On or about June 11, 2001, plaintiff provided notice of claims to Defendant
13 King County as required by the Revised Code of Washington chapter 496, by
14 delivering to King County a completed notice of claim form This notice set
15 forth the facts underlying plaintiff's claim against King County and its agents
16 To date, plaintiff has received no response to his claim, and no compensation
17 has been offered by King County in response to plaintiff's claim

FACTS

- 13 In early evening of November 30, 1999, plaintiff heard unusual
20 noises outside his apartment building, and went out to investigate
21
14. Plaintiff exited his apartment building onto Pine Street and found a
22 large crowd of individuals gathered in the area of Pine Street between
23 Bellevue Avenue and Melrose Avenue.
24
15. Plaintiff proceeded west along Pine Street, crossed Melrose Avenue
25 and stood on the sidewalk on the south side of Pine Street Further
26 west along Pine Street, a group of law enforcement officers stood in a
27 line across the street, facing toward the east.
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16. Plaintiff stood on the sidewalk, away from the crowd, less than 10
feet from the doorway of the Machiavelli Restaurant, which was open
for business at the time.
17. Some law enforcement officers left the line of officers and moved
east along Pine Street
18. One officer rapidly approached where plaintiff stood on the sidewalk.
The officer was shouting, but the officer's words were obscured by the
officer's plastic facemask.
19. Without warning or provocation, the officer harshly struck plaintiff in
the chest and shoulder areas, causing plaintiff to stumble backwards.
Before plaintiff could regain his balance, the officer struck plaintiff
again, and then struck him again, all without warning or provocation.
20. Plaintiff came to a stop near a group of citizens on the sidewalk at the
corner of Melrose Avenue and Pine Street after the unprovoked
attack. Members of the group of citizens on the sidewalk carried
cameras, and plaintiff inquired, "Did anyone get a picture of that?"
21. An officer immediately, without warning, grabbed plaintiff by the
back of plaintiff's coat collar and yanked him toward the west again,
the direction from which plaintiff had just been knocked away
22. Plaintiff, confused and disoriented by the sudden unprovoked attacks,
lost his balance and stumbled forward. The officer continued
dragging plaintiff along the sidewalk toward the west

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3 23 Another officer also grabbed plaintiff's coat and assisted the first
4 officer with dragging the plaintiff, face down, along the sidewalk for
5 some 20 feet. An officer pressed plaintiff's face down into the cement
6 while another officer restrained plaintiff's hands harshly with plastic
7 wrist ties, all within view of the citizens gathered in the area and
8 directly in front of the restaurant open for business, where the patrons
9 witnessed the attacks on plaintiff, and his arrest
- 10
11 24 Plaintiff offered no resistance at any time to any of the harsh,
12 unnecessary and unprovoked attacks from the officers.
- 13
14 25 The officers then dragged plaintiff to his feet and led him across Pine
15 Street to where a law enforcement transport vehicle was waiting.
- 16
17 26 Plaintiff, who was then standing peacefully, hands restrained behind
18 his back, waiting for further instruction or explanation as to why he
19 was being mistreated, was subject to verbal abuse by an officer who
20 shouted at plaintiff, "you people did millions of dollars worth of
21 damage today!" Plaintiff denied the unjustified charge
- 22
23 27 An officer took a photograph of plaintiff standing next to King
24 County Sheriff's officer M. D. Porter, serial number 14005.
- 25
26 28 Officers placed plaintiff in the back of a transport vehicle; plaintiff's
27 hands were still painfully restrained behind his back and plaintiff sat
28 in the dark in the back of the transport vehicle, uncertain of the
29 reasons for the suffering inflicted upon him or of his eventual fate as
30 an officer drove the transport vehicle around for 30 minutes or longer.
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- 29 Officers transported plaintiff eventually to detention at the former
30 Sand Point Naval Facility.
- 31 Plaintiff's personal belongings were taken from him and plaintiff was
32 compelled to provide fingerprints and other sensitive personal
33 identification. A medical professional looked at plaintiff's injuries,
34 including a painful large abrasion on his hand, which resulted from
35 being dragged face down on the sidewalk, and which resulted in a
36 permanent scar.
- 37 Plaintiff was detained for some hours in a large cold holding cell with
38 no furniture, before being transported in shackles to the King County
39 Correctional Facility
- 40 Plaintiff was subjected to further physical discomfort and humiliation
41 as he was processed into detention at King County Correctional
42 Facility Plaintiff's clothing were taken from him, additional personal
43 information was gathered from plaintiff, including his federally
44 issued social security number, which was added to the law
45 enforcement records database, and plaintiff was placed in a jail cell at
46 the King County Correctional Facility, where he was held for many
47 more hours before being released in the mid-morning of December 1,
48 1999, after plaintiff had missed the beginning of his workday
- 49 Upon information and belief, at all times pertinent hereto, Defendant
50 King County permitted and tolerated a pattern and practice of
51 unreasonable use of force by Defendant King County Sheriff's

3 Department Officers directed at citizens either lawfully exercising
4 rights of freedom of speech or assembly or directed at citizens
5 wrongfully suspected of having taken part in such gatherings
6

7 34 Upon information and belief, Defendant King County and Defendant
8 King County Sheriff's Department has maintained a system of review
9 of officer conduct in relation to large gatherings which is so untimely
10 or cursory as to be ineffective and to permit and tolerate the
11 unreasonable and excessive use of force by officers.

12 35 Acts, omissions, systemic flaws, policies, and customs of Defendant
13 King County and Defendant King County Sheriff's Department
14 caused officers and agents of King County Sheriff's Department to
15 understand that excessive and unreasonable use of force would not be
16 aggressively, honestly, and fully investigated, with the foreseeable
17 result that officers are more likely to use excessive or unreasonable
18 force against plaintiff and others in the future.
19

20 **COUNT I: VIOLATION OF CONSTITUTIONAL RIGHTS**

21 36 Plaintiff incorporates herein by reference the allegations contained in
22 paragraphs 1 through 35, inclusive
23
24 37 The intentional, willful and excessive use of force against plaintiff by individual
25 Defendant Officers, acting in their individual capacities and acting as officers
26 and agents of Defendant King County, Defendant King County Sheriff's
27 Department and King County Correctional Facility while plaintiff was unarmed
28 and did not pose a threat of death or grievous bodily injury to defendants or
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others, violated the rights of plaintiff as guaranteed by the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution, for which defendant officers are individually liable.

**COUNT II: VIOLATION OF CONSTITUTIONAL RIGHTS
(Claim for Exemplary Damages)**

38. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 37, inclusive
39. The intentional, willful and excessive use of force against plaintiff by Defendant Officers while plaintiff was unarmed and did not pose a threat of death or grievous bodily injury to defendants or others, was done with actual malice toward plaintiff and with willful and wanton indifference to and deliberate disregard for the constitutional rights of plaintiff. Plaintiff is thus entitled to exemplary damages

COUNT III - VIOLATION OF STATUTORY CIVIL RIGHTS

- 40 Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 39, inclusive
41. The intentional, willful and excessive use of force against plaintiff by Defendants while plaintiff was unarmed and did not pose a threat of death or grievous bodily injury to defendants or others, was done with actual malice toward plaintiff and with willful and wanton indifference to and deliberate disregard for the statutory civil rights of plaintiff. Plaintiff is entitled to compensatory and exemplary damages for these wrongful acts

COUNT IV - CONSPIRACY TO VIOLATE CIVIL RIGHTS

- 42 Plaintiff incorporates by reference the allegations contained in paragraphs 1
through 41, inclusive.
43. Individual Officers and supervisors of Defendants King County, King County
Sheriff's Department, and King County Correctional Facility, conspired to
violate plaintiff's statutory civil rights as more fully described in the preceding
paragraphs in violation of 42 U S C. Section 1983, for which Defendant
Officers are individually liable.

COUNT V – ASSAULT AND BATTERY

- 44 Plaintiff incorporates by reference the allegations contained in paragraphs 1
through 43, inclusive.
- 45 The excessive force, the violence directed against plaintiff, the verbal abuse and
the arrest of plaintiff by Defendant Officers, when plaintiff was unarmed,
standing in an area where he had a full legal right to be, and did not pose any
threat of death or grievous bodily injury to defendants or others, was without
justification or provocation, was excessive, and constitutes assault and battery
for which Defendant Officers are individually liable
- 46 As a proximate result of the assault and battery committed by Defendant
Officers, plaintiff has sustained permanent injuries and has incurred actual
expenses and other losses These injuries have caused and will continue to
cause pain and suffering to plaintiff

COUNT VI – RESPONDEAT SUPERIOR LIABILITY

- 47 Plaintiff incorporates by reference the allegations contained in paragraphs 1
4 through 46, inclusive.
- 48 At all times relevant hereto, Defendant Officers were acting within the scope of
7 their employment as officers or supervisors of Defendant King County Sheriff's
8 Department, or Defendant King County Correctional Facility
- 10 Defendant King County is liable for compensatory damages for the wrongful
11 acts committed by agents and employees of its agencies acting within the scope
12 of their employment and duties, pursuant to the doctrine of respondeat superior.

COUNT VII - NEGLIGENCE

- 14
15 50 Plaintiff incorporates by reference the allegations contained in paragraphs 1
through 49, inclusive
- 17 51 Defendant Officers, while acting as agents and employees for Defendant King
County in their capacity as law enforcement officers for Defendant King County
19 Sheriff's Department or Defendant King County Correctional Facility, owed a
21 duty to plaintiff to perform their law enforcement duties reasonably and without
22 excessive and unwarranted use of force Defendants' use of excessive force
upon plaintiff, when plaintiff was unarmed and did not pose a threat of death or
23 grievous bodily injury to defendants or others constitutes negligence for which
25 Defendant Officers are individually liable.
- 26 52 As a proximate result of defendants' negligent use of excessive force, plaintiff
27 has sustained injuries and he has incurred expenses as a result of these injuries.
28 These injuries have caused and continue to cause pain and suffering to plaintiff.

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COUNT VIII – FALSE ARREST, FALSE IMPRISONMENT, IMPAIRMENT OF
PRIVACY RIGHTS

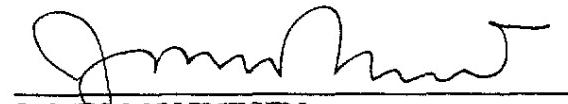
- 5 53. Plaintiff incorporates by reference the allegations contained in paragraphs 1
6 through 52, inclusive.
7
8 54. Defendant Officers falsely arrested and falsely imprisoned plaintiff, without
9 reasonable probable cause that plaintiff had committed any crime that would
10 lawfully subject plaintiff to arrest and imprisonment
11
12 55. As a proximate result of the false arrest and false imprisonment by Defendant
13 Officers, plaintiff suffered damages as described previously, as well as suffering
14 embarrassment and humiliation in his community and neighborhood at having
15 been arrested in full view of fellow citizens and also suffering loss of privacy
16 and security of his personal information, which now constitutes a part of
17 criminal records and databases

18 WHEREFORE, plaintiff requests this Court to enter judgment against the defendants and in
19 favor of plaintiff.

- 20
21 56. Judgment against the defendants, individually and collectively, as compensatory
22 damages, in an amount to be determined, in excess of \$100,000;
23
24 57. Judgment against the defendants, individually and collectively, as exemplary
25 damages, an amount to be determined,
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27 58. An order directing Defendant King County, Defendant King County Sheriff's
28 Department, and Defendant King County Correctional Facility, to expunge any
29 records of plaintiff's arrest and imprisonment and to clear from any and all
30 databases and records any and all charges and all personal information relating
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to plaintiff, including but not limited to home address and telephone number,
fingerprints, 'mug shots' and federally issued social security number,
59 Costs of this action, including reasonable attorney fees to the plaintiff;
60 Such other and further relief as the Court may deem appropriate

SUBMITTED this 30 day of November 2001.



JAMES MOURITSEN
Attorney Pro Se

Plaintiff:
James Mouritzen
1535 Bellevue Av No 204
Seattle, Washington 98122
Telephone 206-624-6524

DEMAND FOR JURY TRIAL

Plaintiff demands a trial in this matter by a jury

SUBMITTED this 30 day of November 2001



JAMES MOURITSEN
Attorney Pro Se